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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,067	02/12/2000	Nicholas R. Dono	YO-999-567	6067

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FERENCE & ASSOCIATES
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EXAMINER
CHANG, ERIC

ART UNIT	PAPER NUMBER
2116	

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		09/503,067	DONO ET AL.
		Examiner	Art Unit	
		Eric Chang	2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 January 2006</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-5,8-31 and 33-35* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-5,8-31 and 33-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1, 3-5, 8-31 and 33-35 are pending.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3.   Claims 1, 20 and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no description in the specification about updating a network location contained within a device upon determination by interface logic that a more recent version of the network location reference is available.

Claim Rejections - 35 USC § 103

4.   The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5.   Claims 1, 3-5, 8-22 and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable

over U.S. Patent 6,009,480 to Pleso, in view of U.S. Patent 6,167,567 to Chiles et al., and in

further view of U.S. Patent 6,041,360 to Himmel et al.

6.   As to claim 1, Pleso discloses a self-describing peripheral device for being integrated

with a computer operating system comprising:

        [a] at least one hardware component in the device [52];

        [b] at least one description subsystem in the device associated with at least one hardware

component [72];

        [c] said subsystem facilitates integration of said device with an operating system [col. 6,

lines 52-62]; and

        [d] said at least one description subsystem comprising interface logic for interpreting

commands received over an interface between said device and a computer operating system [82],

including determining if said device is known to said operating system [col. 8, lines 12-29] and

providing a network location where said information may be obtained [col. 13, lines 26-35].

        Pleso teaches the limitations of the claims, including means to update the self-descriptive

information in the device, and providing a network location where said information may be

obtained [col. 13, lines 33-35]. However, Pleso does not teach interface logic adapted to assist

said device in obtaining a copy of the device driver.

        Chiles teaches a device comprising a device driver, or other software or firmware, to be

updated [col. 7, lines 48-59]. Thus, Chiles teaches a device with operating and integration

information stored thereon similar to that of Pleso. Chiles further teaches the interface logic is

adapted to assist a computer operating system in obtaining a copy of the device driver for

installation in the device [col. 10, lines 13-28].

At the time that the invention was made, it would have been obvious to a person of

ordinary skill in the art to employ the update method as taught by Chiles. One of ordinary skill

in the art would have been motivated to do so that the identification information and device

drivers stored on the device as taught by Pleso can be updated by said device.

It would have been obvious to one of ordinary skill in the art to combine the teachings of

the cited references because they are both directed to the problem of storing device drivers and

identification. Moreover, the update means taught by Chiles would improve the flexibility of

Pleso because it allowed the update process to further comprise version upgrades and error

handling.

Pleso and Chiles teach the limitations of the claim but do not teach updating a network

location upon determination that a more recent version of the network location reference is

available.

Himmel teaches storing a network location to retrieve data from a remote network

location [col. 1, lines 37-53]. Thus, Himmel teaches storing a network location similar to that of

Pleso and Chiles. Himmel further teaches determining if a more recent version of the network

location reference is available [col. 2, lines 63-67, and col. 3, lines 1-7], and updating the

network location if a more recent version is available [col. 3, lines 7-11].

At the time that the invention was made, it would have been obvious to a person of

ordinary skill in the art to employ the network location update as taught by Himmel. One of

ordinary skill in the art would have been motivated to do so that the network location always

refers to a current version of the network location.

It would have been obvious to one of ordinary skill in the art to combine the teachings of

the cited references because they are both directed to the problem of maintaining a network

location for retrieval of data. Moreover, the network location update means taught by Himmel

would improve the flexibility of Pleso and Chiles because it allowed the device to dynamically

update its network location reference in an automatic manner.

7.   As to claim 3, Pleso discloses the device comprises:

        [a] non-volatile memory [72]; and

        [b] interface logic being adapted to control said non-volatile memory [82].

8.   As to claim 4, Pleso discloses the logic facilitates identification of said device [col. 6,

lines 52-62].

9.   As to claim 5, Pleso discloses the logic facilitates the provision of information to an

operating system relating to the version of said device driver [col. 6, lines 52-62]. Pleso teaches

the descriptive information contains the driver for the device; it is well known in the art that

drivers usually comprise version information about themselves.

10.   As to claim 8, Chiles discloses the logic facilitates the updating of a network location

where a recent version of a device driver is obtainable [col. 31, lines 32-44].

11.   As to claim 9, Chiles discloses the logic facilitates the updating of the device driver

information stored on the device [col. 3, lines 10-24].

12.   As to claim 10, Chiles further discloses logic that compares the locally stored device

driver with a remotely stored device driver to determine which one is newer [col. 15, lines 61-67

and col. 16, lines 1-5] and to prompt usage of the newer version [col. 16, lines 22-24].

13.   As to claim 11, Chiles further discloses logic that prompts usage of locally stored device

driver if a remotely stored device driver is not accessible [col. 15, lines 1-17]. Chiles teaches

that the user is notified and prompted if the connection to the remote device driver fails.

14.   As to claim 12, Chiles further discloses logic that compares said locally stored device

driver with a remotely stored device driver at predetermined time intervals [col. 15, lines 5-13

and col. 16, lines 32-43]. Chiles teaches that the logic automatically schedules a date for the next

update to the device driver; that is, after the predetermined time interval as scheduled, the

process to compare and update device drivers will once again occur.

15.   As to claims 13-19, Pleso teaches the limitations of the claims but does not specifically

teach the devices that can use the limitations.

       Chiles teaches that device can be a modem, graphics card, or other computer peripheral

with software and firmware updates made available by its manufacturer [col. 1, lines 62-67].

At the time that the invention was made, it would have been obvious to a person of ordinary skill in the art to employ the devices as taught by Chiles. One of ordinary skill in the art would have been motivated to do so that the devices are self-descriptive.

It would have been obvious to one of ordinary skill in the art to combine the teachings of the cited references because they are both directed to the problem of information stored on a non-volatile memory within a device. Moreover, the devices taught by Chiles would improve the utility of Pleso because it allowed his teachings to be applied to a variety of applications not disclosed by Pleso.

Furthermore, it would be obvious to one of ordinary skill in the art that such devices could further comprise a printer, a sound card, IDE/SCSI disk controller, or a network controller, substantially as claimed.

16.   As to claim 20, Pleso discloses a method for integrating a self-describing peripheral device with a computer operating system, the method comprising:

[a] providing at least one hardware component in the device [52];

[b] providing at least one description subsystem in the device associated with at least one hardware component [72];

[c] adapting with said subsystem to facilitate integration of said device with an operating system [col. 6, lines 52-62] by interpreting commands received over an interface between said device and a computer operating system [82], including determining if said device is known to said operating system [col. 8, lines 12-29] and providing a network location where said information may be obtained [col. 13, lines 26-35].

Pleso teaches the limitations of the claims, including means to update the self-descriptive

information in the device, and providing a network location where said information may be

obtained [col. 13, lines 33-35]. However, Pleso does not teach interface logic adapted to assist

said device in obtaining a copy of the device driver.

Chiles teaches a device comprising a device driver, or other software or firmware, to be

updated [col. 7, lines 48-59]. Thus, Chiles teaches a device with operating and integration

information stored thereon similar to that of Pleso. Chiles further teaches the interface logic is

adapted to assist a computer operating system in obtaining a copy of the device driver for

installation in the device [col. 10, lines 13-28].

At the time that the invention was made, it would have been obvious to a person of

ordinary skill in the art to employ the update method as taught by Chiles. One of ordinary skill

in the art would have been motivated to do so that the identification information and device

drivers stored on the device as taught by Pleso can be updated by said device.

It would have been obvious to one of ordinary skill in the art to combine the teachings of

the cited references because they are both directed to the problem of storing device drivers and

identification. Moreover, the update means taught by Chiles would improve the flexibility of

Pleso because it allowed the update process to further comprise version upgrades and error

handling.

Pleso and Chiles teach the limitations of the claim but do not teach updating a network

location upon determination that a more recent version of the network location reference is

available.

Himmel teaches storing a network location to retrieve data from a remote network

location [col. 1, lines 37-53]. Thus, Himmel teaches storing a network location similar to that of

Pleso and Chiles. Himmel further teaches determining if a more recent version of the network

location reference is available [col. 2, lines 63-67, and col. 3, lines 1-7], and updating the

network location if a more recent version is available [col. 3, lines 7-11].

At the time that the invention was made, it would have been obvious to a person of

ordinary skill in the art to employ the network location update as taught by Himmel. One of

ordinary skill in the art would have been motivated to do so that the network location always

refers to a current version of the network location.

It would have been obvious to one of ordinary skill in the art to combine the teachings of

the cited references because they are both directed to the problem of maintaining a network

location for retrieval of data. Moreover, the network location update means taught by Himmel

would improve the flexibility of Pleso and Chiles because it allowed the device to dynamically

update its network location reference in an automatic manner.

17.   As to claim 21, Pleso discloses the logic facilitates identification of said device [col. 6,

lines 52-62].

18.   As to claim 22, Pleso discloses the logic facilitates the provision of information to an

operating system relating to the version of said device driver [col. 6, lines 52-62]. Pleso teaches

the descriptive information contains the driver for the device; it is well known in the art that

drivers usually comprise version information about themselves.

19.   As to claim 25, Chiles discloses the logic facilitates the updating of a network location

where a recent version of a device driver is obtainable [col. 31, lines 32-44].

20.   As to claim 26, Chiles discloses the logic facilitates the updating of the device driver

information stored on the device [col. 3, lines 10-24].

21.   As to claims 27 and 30, Chiles further discloses logic that compares the locally stored

device driver with a remotely stored device driver to determine which one is newer [col. 15, lines

61-67 and col. 16, lines 1-5] and to prompt usage of the newer version [col. 16, lines 22-24].

22.   As to claim 28, Chiles further discloses logic that prompts usage of locally stored device

driver if a remotely stored device driver is not accessible [col. 15, lines 1-17]. Chiles teaches

that the user is notified and prompted if the connection to the remote device driver fails.

23.   As to claim 29, Chiles further discloses logic that compares said locally stored device

driver with a remotely stored device driver at predetermined time intervals [col. 15, lines 5-13

and col. 16, lines 32-43]. Chiles teaches that the logic automatically schedules a date for the next

update to the device driver; that is, after the predetermined time interval as scheduled, the

process to compare and update device drivers will once again occur.

24.   As to claim 31, Pleso discloses a program of instructions stored in a program storage

device comprising instructions for integrating a self-describing peripheral device with a

computer operating system, the program comprising:

[a] providing at least one hardware component in the device [52];

[b] providing at least one description subsystem in the device associated with at least one

hardware component [72];

[c] adapting with said subsystem to facilitate integration of said device with an operating

system [col. 6, lines 52-62] by interpreting commands received over an interface between said

device and a computer operating system [82], including determining if said device is known to

said operating system [col. 8, lines 12-29] and providing a network location where said

information may be obtained [col. 13, lines 26-35].

Pleso teaches the limitations of the claims, including means to update the self-descriptive

information in the device, and providing a network location where said information may be

obtained [col. 13, lines 33-35]. However, Pleso does not teach interface logic adapted to assist

said device in obtaining a copy of the device driver.

Chiles teaches a device comprising a device driver, or other software or firmware, to be

updated [col. 7, lines 48-59]. Thus, Chiles teaches a device with operating and integration

information stored thereon similar to that of Pleso. Chiles further teaches the interface logic is

adapted to assist a computer operating system in obtaining a copy of the device driver for

installation in the device [col. 10, lines 13-28].

At the time that the invention was made, it would have been obvious to a person of

ordinary skill in the art to employ the update method as taught by Chiles. One of ordinary skill

in the art would have been motivated to do so that the identification information and device

drivers stored on the device as taught by Pleso can be updated by said device.

It would have been obvious to one of ordinary skill in the art to combine the teachings of

the cited references because they are both directed to the problem of storing device drivers and

identification. Moreover, the update means taught by Chiles would improve the flexibility of

Pleso because it allowed the update process to further comprise version upgrades and error

handling.

Pleso and Chiles teach the limitations of the claim but does not teach updating a network

location upon determination that a more recent version of the network location reference is

available.

Himmel teaches storing a network location to retrieve data from a remote network

location [col. 1, lines 37-53]. Thus, Himmel teaches storing a network location similar to that of

Pleso and Chiles. Himmel further teaches determining if a more recent version of the network

location reference is available [col. 2, lines 63-67, and col. 3, lines 1-7], and updating the

network location if a more recent version is available [col. 3, lines 7-11].

At the time that the invention was made, it would have been obvious to a person of

ordinary skill in the art to employ the network location update as taught by Himmel. One of

ordinary skill in the art would have been motivated to do so that the network location always

refers to a current version of the network location.

It would have been obvious to one of ordinary skill in the art to combine the teachings of

the cited references because they are both directed to the problem of maintaining a network

location for retrieval of data. Moreover, the network location update means taught by Himmel

would improve the flexibility of Pleso and Chiles because it allowed the device to dynamically

update its network location reference in an automatic manner.

25.   Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent

6,009,480 to Pleso, in view of U.S. Patent 6,167,567 to Chiles et al., in further view of U.S.

Patent 6,041,360 to Himmel et al., and in further view of U.S. Patent 6,578,142 to Anderson et

al.

        Pleso, Chiles and Himmel teach the limitations of the claims, but do not teach interface

logic that is adapted to query a computer user whether to initiate a low-bandwidth transfer of the

device driver upon recognition of a low-bandwidth connection. However, Chiles does teach that

the user is notified and prompted to confirm updates [col. 16, lines 15-24].

        Anderson teaches initiating a transfer of a device driver upon recognition of a connection

bandwidth [col. 12, lines 22-67]. Thus, Anderson teaches a retrieval of device drivers similar to

that of Pleso, Chiles and Himmel. Anderson further teaches the transfer of said drivers is

contingent on the available bandwidth [col. 12, lines 40-46].

        At the time that the invention was made, it would have been obvious to a person of

ordinary skill in the art to employ the bandwidth-dependent transfer as taught by Anderson. One

of ordinary skill in the art would have been motivated to do so that the available bandwidth for

the device driver transfer could be determined.

        It would have been obvious to one of ordinary skill in the art to combine the teachings of

the cited references because they are both directed to the problem of retrieving device drivers

over a network. Moreover, the bandwidth-dependent transfer means taught by Anderson would

improve the performance of Pleso, Chiles and Himmel because it prevented the retrieval of

device drivers to negatively impact the user's network bandwidth usage.

Response to Arguments

26.   Applicant's arguments with respect to claims 1, 3-5, 8-31 and 33-35 have been considered

but are moot in view of the new ground(s) of rejection.

27.   In the remarks, applicants argued in substance that the specification contains a

description about updating a network location contained within a device upon determination by

interface logic that a more recent version of the network location reference is available.

Applicants argued that the interface logic provides an "Update Link" function that allows the

update of the location of where to find the latest version of a given device driver, thereby

enabling updating a network location contained within a device. However, applicant has not

shown that the specification contains enablement for an interface logic that can determine that a

more recent version of the network location reference is available. Because there is no

description in the specification about determination by the interface logic that a more recent

version of the network location reference is available, the specification does not reasonably

convey to one skilled in the relevant art that the inventor had possession at the time of claimed

subject matter of updating a network location contained within a device upon determination by

interface logic that a more recent version of the network location reference is available.

28.   In the remarks, applicants argued that the interface logic provides a "Get Link to Device

Driver Data" function that provides a reference to a network location where the most recent

version of the device driver can be found. But the "Get Link to Device Driver Data" function

only returns the network location already stored in the device, and is not a determination by the

interface logic that a more recent version of the network location reference is available.

29.   In response to applicant's argument that there is no suggestion to combine the Pleso and

Chiles references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where

there is some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re*

Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21

USPQ2d 1941 (Fed. Cir. 1992). In this case, Pleso teaches a self-describing peripheral device

adapted, inter alia, to obtain a copy of its device driver from a network location. Chiles also

teaches a method for obtaining a copy of a device driver from a network location, similar to that

of Pleso. It would have been obvious to one of ordinary skill in the art to combine the teachings

of the cited references because they are both directed to the problem of storing device drivers and

identification and retrieving device drivers to facilitate integrating the device with the host

operating system. Moreover, the update means taught by Chiles would improve the flexibility of

Pleso because it allowed the update process to further comprise version upgrades and error

handling.

30.   In the remarks, applicants argued in substance that there is no motivation to combine the

Pleso and Chiles references because the scripting and client-server network environment by

which Chiles retrieves the device driver is fundamentally different from that of Pleso. But Chiles

teaches that device software is downloaded from the server by referencing a locally stored

network location (URL) [col. 14, lines 62-67], similar to that of Pleso. That the Chiles further

teaches downloading a script from the server to perform additional tasks, inter alia, determining

the presence of an updated driver and scheduling a subsequent update, only provides motivation

to combine the references because it would allow Pleso more complex functionality in the

retrieval of the device driver.

31.   In the remarks, applicants argued in substance that that there is no motivation to combine

the Pleso and Chiles references with the Himmel reference because the scripting means by which

Chiles retrieves the device driver uses a server-maintained script that automatically refers to a

current version of the network location. But Himmel teaches determining if there is a more

recent version of the network location when a URL redirection request is detected [col. 3, lines

5-8]. Because both Pleso and Chiles also teach using a URL request to access a network

location, it would have been obvious to one of ordinary skill in the art to combine the teachings

of Pleso and Chiles with Himmel so that the presence of a more recent URL can be detected and

stored for future accesses [col. 3, lines 7-9].

32.   In the remarks, applicants argued in substance that Himmel's teaching of updating a web

browser's bookmark does not teach or suggest updating a network location within a device by

interface logic. But Himmel teaches the limitation of detecting if a more recent URL exists

when a computer makes an access attempt to a server [col. 3, lines 1-7], and updating a local

reference to the network location with the newer URL [col. 3, lines 7-11]. Thus, Himmel teaches

updating a reference to a network location upon determination that a more recent version of the

network location is available, substantially as claimed.

33.   Applicant's arguments, see page 13, filed January 3, 2006, with respect to claims 33-35

have been fully considered and are persuasive. The 35 U.S.C. 112, fist paragraph rejection of

claims 33-35 has been withdrawn.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Eric Chang whose telephone number is (571) 272-3671. The

examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Lynne Browne can be reached on (571) 272-3670. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 21, 2006
ec

JAMES K. TRUJILLO
PATENT EXAMINER
TC 2100